

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

SAM PAUL RICHARDSON §
v. § CIVIL ACTION NO. 9:11cv88
SHARLETT DYER, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND DENYING MOTION FOR RELIEF FROM JUDGMENT

The Plaintiff Sam Richardson, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of a prison disciplinary case which he received. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Richardson sought declaratory and injunctive relief as well as actual damages for a prison disciplinary case which he received. After review of the pleadings, the Magistrate Judge issued a Report recommending that the case be dismissed because Richardson had not shown that the disciplinary case of which he complained had been overturned or expunged. Richardson did not file objections, and the case was dismissed on June 16, 2011.

On August 4, 2011, Richardson filed a motion for relief from judgment arguing that it was not true that he had failed to state a claim. On August 15, 2011, the Magistrate Judge issued a Report recommending that the motion for relief from judgment be denied because the requirement that Richardson show that the disciplinary case was expunged had been set out by the U.S. Supreme Court in Edwards v. Balisok, 520 U.S. 641 (1997), and Richardson had failed to meet this requirement.

Although Richardson has filed a motion for leave to amend his complaint, which was denied, he has not filed objections to the Magistrate Judge's Report. Accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in the cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 12) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for relief from judgment (docket no. 11) be and hereby is DENIED.

So ORDERED and SIGNED this 11 day of October, 2011.



Ron Clark, United States District Judge